



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**



**CITY OF TUCSON v. CLEAR CHANNEL OUTDOOR, INC.,  
CV-04-0033-PR**

**PARTIES/COUNSEL:**

***Petitioner:*** City of Tucson, represented by Michael D. House, City Attorney, and Frank William Kern III, Principal Assistant City Attorney, and by Paul G. Ulrich.

***Defendant:*** Clear Channel Outdoor, Inc., represented by John F. Munger and Evelyn Patrick Rick of Munger Chadwick, P.L.C.

***Amici Curiae:*** Neighborhood Coalition of Greater Tucson, The Sierra Club, Grand Canyon Chapter, Neighborhood Coalition of Greater Phoenix, N.A.I.L.E.M., and Luz Social Services, represented by Joy E. Herr-Cardillo of the Arizona Center for Law in the Public Interest.

**FACTS:**

On July 17, 2000, the City of Tucson filed a complaint seeking abatement of 122 nonconforming billboards owned by Clear Channel. (The City later amended its complaint to add another 51 billboards.) At the time the suit was filed, there was no statute of limitations for such enforcement actions. A newly passed statute of limitation took effect, however, the day after this suit was filed, on July 18, 2000. That statute, A.R.S. § 9-462.02(c), states: “A municipality must issue a citation and file an action involving an outdoor advertising use of structure zoning or sign code violation within two years after discovering the violation.” Clear Channel moved for summary judgment, arguing that the City knew of the billboards more than two years before the statute took effect, and that, under the new statute, the City was barred from bringing an enforcement action. The City acknowledged that it had discovered 89 of the alleged violations more than two years prior to filing this suit, but argued that the two-year limitation ran from the effective date of the statute. The trial court granted Clear Channel’s motion for summary judgment as to the 89 billboards the City admitted having known of for more than two years. The Court of Appeals affirmed.

**ISSUE:**

“Whether the Court of Appeals correctly decided that A.R.S. § 12-505(B), the statute governing application of new statutes of limitations where no period of limitation previously exists, can be applied so that the time to bring existing causes of action is zero and therefore bar any existing causes of action municipalities previously might have had.”

**Relevant Statute:**

A.R.S. § 12-505 provides:

A. An action barred by pre-existing law is not revived by amendment of such law enlarging the time in which such action may be commenced.

B. If an action is not barred by pre-existing law, the time fixed in an amendment of such law shall govern the limitation of the action.

C. If an amendment of pre-existing law shortens the time of limitation fixed in the pre-existing law so that an action under pre-existing law would be barred when the amendment takes effect, such action may be brought within one year from the time the new law takes effect, and not afterward.

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